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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 LON MARTIN AKA LON MILLER,

11 Petitioner,

12 v.

13 KENNETH QUINN,

14 Respondent.

Case No. C08-5344RJB-KLS

ORDER ON MOTION FOR  
EXTENSION OF TIME AND  
RENOTING REPORT AND  
RECOMMENDATION

15 This matter comes before the Court on U.S. Magistrate Judge Karen L. Strombom's Report and  
16 Recommendation (Dkt. 13) and Petitioner's Motion for Extension of Time (Dkt. 15). The Court has  
17 considered the relevant documents and the remainder of the file herein.

18 Petitioner filed this petition for writ of *habeas corpus* pursuant to 28 U.S.C. § 2254 on May 30,  
19 2008. Dkt. 1. Petitioner challenges his first degree murder conviction, in part, by arguing that a hearing  
20 should have been held at trial to determine his mental competence. *Id.* The Report and Recommendation  
21 recommends dismissal of the petition as time barred. Dkt. 13.

22 In response to the Respondent's Motion to Dismiss, Petitioner states that he has been on a variety  
23 of psychotropic drugs since his incarceration at Monroe Correctional Complex Special Offender Unit for  
24 the mentally ill. Dkt. 12. He states that this "really meesed [sic] with Petitioner's head." *Id.* He further  
25 states that "the last few years have been the [sic] hardest, Petitioner's [sic] mind is not working well.  
26 Petitioner knows this is not an excuse, Petitioner is just asking if you could look at our case." *Id.*  
27 In his motion for and extension of time, Petitioner argues that he has not been "mentally doing well" and  
28 seeks an extension of time to file objections to the Report and Recommendation. Dkt. 15. Petitioner  
indicates that someone else is helping him file these pleadings. *Id.*


1 Petitioner's motion for extension of time (Dkt. 15) should be granted. Petitioner has alleged  
2 sufficient good cause for an extension of time to file objections to the Report and Recommendation. The  
3 Report and Recommendation should be renoted to January 16, 2009.

4 The record raises issues regarding Petitioner's ability to represent himself. A United States court  
5 may appoint counsel to represent a party who is financially eligible and is seeking relief under 28 U.S.C. §  
6 2254. 18 U.S.C. § 3006A, *See also* 28 U.S.C. § 2254(h). In the interest of justice, and in light of the  
7 Ninth Circuit's holding in *Laws v. Lamarque*, 351 F.3d 919 (9th Cir. 2003), the Office of the Federal  
8 Public Defender is appointed counsel for Petitioner for the purpose of exploring whether Petitioner would  
9 like a lawyer appointed to represent him in this case and whether he is financially eligible for court  
10 appointed counsel. The Office of the Federal Public Defender should inform the Court on or before  
11 December 12, 2009 whether appointed counsel is appropriate in this case, and whether Petitioner requests  
12 and qualifies for appointed counsel.

13 Therefore, it is hereby **ORDERED** that:

- 14 • Petitioner's Motion for Extension of Time to File Objections to the Report and Recommendation  
15 (Dkt. 15) is **GRANTED**;
- 16 • The Report and Recommendation (Dkt. 13) is **RENOTED** to January 16, 2009;
- 17 • The Office of the Federal Public Defender **SHALL** notify the Court within 21 days of this order  
18 whether Petitioner would like court appointed counsel and whether he is financially eligible for  
19 court appointed counsel; and
- 20 • The Clerk of the Court is directed to send uncertified copies of this Order to the Office of the  
21 Federal Public Defender, all counsel of record and to any party appearing *pro se* at said party's last  
22 known address.

23 DATED this 20th day of November, 2008.

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26 Robert J Bryan  
27 United States District Judge  
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